

GENERAL SALES TAX ACT (EXCERPT)
Act 167 of 1933

205.51 Definitions; unlicensed person as agent of dealer, distributor, supervisor, or employer; regarding dealer, distributor, supervisor, or employer as making sales at retail prices.

Sec. 1. (1) As used in this act:

(a) "Person" means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether organized for profit or not, company, estate, trust, receiver, trustee, syndicate, the United States, this state, county, or any other group or combination acting as a unit, and includes the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) "Sale at retail" or "retail sale" means a sale, lease, or rental of tangible personal property for any purpose other than for resale, sublease, or subrent.

(c) "Gross proceeds" means sales price.

(d) "Sales price" means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, and applies to the measure subject to sales tax. Sales price includes the following subparagraphs (i) through (vi) and excludes subparagraphs (vii) through (viii):

(i) Seller's cost of the property sold.

(ii) Cost of materials used, labor or service cost, interest, losses, costs of transportation to the seller, taxes imposed on the seller other than taxes imposed by this act, and any other expense of the seller.

(iii) Charges by the seller for any services necessary to complete the sale, other than the following:

(A) An amount received or billed by the taxpayer for remittance to the employee as a gratuity or tip, if the gratuity or tip is separately identified and itemized on the guest check or billed to the customer.

(B) Labor or service charges involved in maintenance and repair work on tangible personal property of others if separately itemized.

(iv) Delivery charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(v) Installation charges incurred or to be incurred before the completion of the transfer of ownership of tangible personal property from the seller to the purchaser.

(vi) Credit for any trade-in.

(vii) Interest, financing, or carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(viii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(e) "Business" includes an activity engaged in by a person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect.

(f) "Tax year" or "taxable year" means the fiscal year of the state or the taxpayer's fiscal year if permission is obtained by the taxpayer from the department to use the taxpayer's fiscal year as the tax period instead.

(g) "Department" means the department of treasury.

(h) "Taxpayer" means a person subject to a tax under this act.

(i) "Tax" includes a tax, interest, or penalty levied under this act.

(j) "Textiles" means goods that are made of or incorporate woven or nonwoven fabric, including, but not limited to, clothing, shoes, hats, gloves, handkerchiefs, curtains, towels, sheets, pillows, pillow cases, tablecloths, napkins, aprons, linens, floor mops, floor mats, and thread. Textiles also include materials used to repair or construct textiles, or other goods used in the rental, sale, or cleaning of textiles.

(2) If the department determines that it is necessary for the efficient administration of this act to regard an unlicensed person, including a salesperson, representative, peddler, or canvasser as the agent of the dealer, distributor, supervisor, or employer under whom the unlicensed person operates or from whom the unlicensed person obtains the tangible personal property sold by the unlicensed person, irrespective of whether the unlicensed person is making sales on the unlicensed person's own behalf or on behalf of the dealer, distributor, supervisor, or employer, the department may so regard the unlicensed person and may regard the dealer, distributor, supervisor, or employer as making sales at retail at the retail price for the purposes of this act.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1935, Act 77, Imd. Eff. May 23, 1935;—Am. 1939, Act 123, Imd. Eff. May

19, 1939;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—Am. 1941, Act 59, Imd. Eff. May 5, 1941;—Am. 1941, Act 249, Imd. Eff. June 16, 1941;—Am. 1943, Act 29, Imd. Eff. Mar. 24, 1943;—Am. 1945, Act 259, Imd. Eff. May 25, 1945;—Am. 1948, Ex. Sess., Act 30, Imd. Eff. May 10, 1948;—CL 1948, 205.51;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1950, 1st Ex. Sess., Act 9, Imd. Eff. May 9, 1950;—Am. 1951, Act 245, Eff. Sept. 28, 1951;—Am. 1952, Act 166, Imd. Eff. Apr. 24, 1952;—Am. 1953, Act 204, Imd. Eff. June 10, 1953;—Am. 1955, Act 236, Eff. Oct. 14, 1955;—Am. 1960, Act 76, Imd. Eff. Apr. 25, 1960;—Am. 1964, Act 214, Eff. Aug. 28, 1964;—Am. 1970, Act 16, Eff. May 1, 1970;—Am. 1973, Act 45, Imd. Eff. July 4, 1973;—Am. 1976, Act 70, Imd. Eff. Apr. 5, 1976;—Am. 1982, Act 218, Eff. Jan. 1, 1984;—Am. 1984, Act 32, Imd. Eff. Mar. 14, 1984;—Am. 1987, Act 259, Imd. Eff. Dec. 28, 1987;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 1994, Act 127, Eff. Aug. 1, 1994;—Am. 1995, Act 209, Imd. Eff. Nov. 29, 1995;—Am. 1997, Act 193, Eff. Jan. 1, 1998;—Am. 1998, Act 365, Imd. Eff. Oct. 20, 1998;—Am. 1998, Act 451, Imd. Eff. Dec. 30, 1998;—Am. 1999, Act 116, Imd. Eff. July 14, 1999;—Am. 2000, Act 390, Imd. Eff. Jan. 8, 2001;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

Compiler's note: Act 76 of 1984 amended Act 32 of 1984 by adding enacting section 2 to read as follows:

"Section 2. (1) This amendatory act shall not apply to qualified purchase agreements, or verified purchase agreements if in relation to a refund under subsection (4), for a motor vehicle, trailer coach, or titled watercraft entered into on or before March 14, 1984 if the transfer of ownership occurs on or before February 1, 1985 and if a motor vehicle or trailer coach or titled watercraft is used as part payment of the purchase price.

"(2) A taxpayer may submit a claim for refund to the department if all of the following occur:

"(a) A qualified purchase agreement is entered into on or before March 14, 1984.

"(b) The transfer of ownership occurs after March 14, 1984 and on or before 10 days after the effective date of this amendatory act that added this enacting section.

"(c) The tax imposed upon the sale at retail was in an amount greater than the tax required if pursuant to this enacting section, this amendatory act had not been applied in determining the gross proceeds upon which the tax was computed.

"(d) The taxpayer who paid the excess tax provides satisfactory proof that the taxpayer has reimbursed the purchaser of the motor vehicle, trailer coach, or titled watercraft for the excess paid by the purchaser if applicable.

"(3) Upon verification of a claim made pursuant to subsection (2), the department shall refund the exempt tax paid to the claimant.

"(4) The department may establish procedures to refund any excess tax paid by the purchaser, directly to the purchaser, when the taxpayer has failed to claim a refund for an overpayment made by the purchaser.

"(5) For the purposes of this section, "qualified purchase agreement" means a purchase agreement filed with the department on or before 10 days after the effective date of this amendatory act that added this enacting section."

Enacting section 2 of Act 116 of 1999 provides:

"Enacting section 2. This amendatory act clarifies that, with the exception of telecommunications equipment taxed under section 3a of the use tax act, 1937 PA 94, MCL 205.93a, a taxpayer may exclude a sale of tangible personal property from gross proceeds only to the extent that the property is used for exempt purposes. For telecommunications equipment exempt under section 4v of the general sales tax act, 1933 PA 167, MCL 205.54v, this amendatory act clarifies that for periods before April 1, 1999, the tax shall not be apportioned and for periods beginning April 1, 1999, the tax shall be apportioned. This amendatory act clarifies that existing law as originally intended provides a prorated exemption. This amendatory act takes effect for all periods beginning March 31, 1995 and all tax years that are open under the statute of limitations provided in section 27a of 1941 PA 122, MCL 205.27a."

Administrative rules: R 205.1 et seq. and R 205.401 et seq. of the Michigan Administrative Code.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.52 Sales tax; rate; additional applicability; separate books required; penalty; tax as personal obligation of taxpayer; exemption.

Sec. 2. (1) Except as provided in section 2a, there is levied upon and there shall be collected from all persons engaged in the business of making sales at retail, by which ownership of tangible personal property is transferred for consideration, an annual tax for the privilege of engaging in that business equal to 6% of the gross proceeds of the business, plus the penalty and interest if applicable as provided by law, less deductions allowed by this act.

(2) The tax under subsection (1) also applies to the following:

(a) The transmission and distribution of electricity, whether the electricity is purchased from the delivering utility or from another provider, if the sale is made to the consumer or user of the electricity for consumption or use rather than for resale.

(b) The sale of a prepaid telephone calling card or a prepaid authorization number for telephone use, rather than for resale, including the reauthorization of a prepaid telephone calling card or a prepaid authorization number.

(c) A conditional sale, installment lease sale, or other transfer of property, if title is retained as security for the purchase but is intended to be transferred later.

(3) Any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation, or profession not taxable under this act shall keep books to show separately the transactions used in determining the tax levied by this act. If the person fails to keep separate books, there shall be levied upon him or her the tax provided for in subsection (1) equal to 6% of the entire gross proceeds of both or all of his or her businesses. The taxes levied by this section are a personal obligation of the taxpayer.

(4) A meal provided free of charge or at a reduced rate to an employee during work hours by a food service establishment licensed by the Michigan department of agriculture for the convenience of the employer is not considered transferred for consideration.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.52;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1960, 2nd Ex. Sess., Act 1, Eff. Jan. 1, 1961;—Am. 1984, Act 228, Imd. Eff. July 30, 1984;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.53 License required to engage in business for which privilege tax imposed; application; fee; bond or deposit; renewal; exemptions; suspension and restoration of license; violation as misdemeanor; penalty; registration under streamlined sales and use tax agreement.

Sec. 3. (1) Subject to subsection (4), if a person engages or continues in a business for which a privilege tax is imposed by this act, the person shall, under rules the department prescribes, apply for and obtain from the department a license to engage in and to conduct that business for the current tax year. If the department considers it necessary in order to secure the collection of the tax or if an applicant taxpayer has at any time failed, refused, or neglected to pay any tax or interest or penalty upon a tax or has attempted to evade the payment of any tax or interest or penalty upon a tax by means of petition in bankruptcy, or if the applicant taxpayer is a corporation and the department has reason to believe that the management or control of the corporation is under persons who have failed to pay any tax or interest or penalty upon a tax under this act, the department shall require a surety bond payable to the state of Michigan, upon which the applicant or taxpayer shall be the obligor, in the sum of not less than \$1,000.00 nor more than \$25,000.00. The surety bond shall be conditioned that the applicant or taxpayer shall comply with this act and shall promptly file true reports and pay the taxes, interest, and penalties provided for or required by this act. The bonds shall be approved as to the amount and surety by the department. The applicant or taxpayer may in lieu of the surety bond deposit a sum of money with the department in an amount the department determines to guarantee the payment of the tax, interest, and penalty and compliance with this act. However, the amount determined by the department shall not exceed the estimated tax payable during a 1-year period. The applicant or taxpayer shall be licensed to engage in and conduct the business. The department may require the applicant or taxpayer to furnish any additional bond that it considers necessary within the limits in this section, after giving a 30-day notice in writing. The license shall be renewed annually if the taxpayer pays the tax accrued to this state under this act. A person shall not engage or continue in a business taxable under this act without securing a license. A person, firm, or corporation engaged solely in industrial processing or agricultural producing under this act and who makes no sales at retail within the meaning of this act is not required to have a license.

(2) The state treasurer or his or her designee, after notice and hearing, may suspend the license of a person who violates or fails to comply with this act or a rule promulgated by the department under this act. The state treasurer or his or her designee may restore licenses after suspension. If a person engages in business taxable under this act while his or her license is in suspension, the tax imposed under this act is imposed and payable with respect to that business.

(3) A person who engages in any business in this state that is taxable under this act and who fails to secure from the department a license to engage in that business or who continues to engage in business after the license has expired or was suspended by the state treasurer or his or her designee is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both.

(4) A seller registered under the streamlined sales and use tax agreement who is not otherwise obligated to obtain a sales tax license in this state is not required to obtain a sales tax license because of that registration.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 180, Eff. Sept. 29, 1939;—CL 1948, 205.53;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1961, Act 228, Eff. Sept. 8, 1961;—Am. 1980, Act 164, Eff. Sept. 17, 1980;—Am. 2002, Act 457, Imd. Eff. June 21, 2002;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

GENERAL SALES TAX ACT (EXCERPT)

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205.54 Deductions; filing estimated returns and annual periodic reconciliations; registration under streamlined sales and use tax agreement.

Sec. 4. (1) In computing the amount of tax levied under this act for any month, a taxpayer not subject to section 6(2) may deduct the amount provided by subdivision (a) or (b), whichever is greater:

(a) If the tax that accrued to this state from the sales at retail during the preceding month is remitted to the department on or before the twelfth day of the month in which remittance is due, 0.75% of the tax due at a rate of 4% for the preceding monthly period, but not to exceed \$20,000.00 of the tax due for that month. If the tax that accrued to this state from the sales at retail during the preceding month is remitted to the department after the twelfth day and on or before the twentieth day of the month in which remittance is due, 0.50% of the tax due at a rate of 4% for the preceding monthly period, but not to exceed \$15,000.00 of the tax due for that month.

(b) The tax at a rate of 4% due on \$150.00 of taxable gross proceeds for the preceding monthly period, or a prorated portion of \$150.00 of the taxable gross proceeds for the preceding month if the taxpayer engaged in business for less than a month.

(2) Beginning January 1, 1999, in computing the amount of tax levied under this act for any month, a taxpayer who is subject to section 6(2) may deduct from the amount of the tax paid 0.50% of the tax due at a rate of 4%.

(3) A deduction is not allowed under this section for payments of taxes made to the department after the day the taxpayer is required to pay, pursuant to section 6, the tax imposed by this act.

(4) If, pursuant to section 6(4), the department prescribes the filing of returns and the payment of the tax for periods in excess of 1 month, a taxpayer is entitled to a deduction from the tax collections remitted to the department for the extended payment period that is equivalent to the deduction allowed under subsection (1) or (2) for monthly periods.

(5) The department may prescribe the filing of estimated returns and annual periodic reconciliations as necessary to carry out the purposes of this section.

(6) A seller registered under the streamlined sales and use tax agreement may claim a deduction under this section if provided for in the streamlined sales and use tax administration act.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.54;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1981, Act 219, Eff. Mar. 31, 1982;—Am. 1993, Act 18, Imd. Eff. Apr. 14, 1993;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 1998, Act 267, Imd. Eff. July 17, 1998;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

GENERAL SALES TAX ACT (EXCERPT)

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205.55 Additional tax.

Sec. 5. Additional tax. The tax imposed by this act shall be in addition to all other license fees and taxes levied by law as a condition precedent to engaging or continuing in any business taxable hereunder, except as in this act otherwise specifically provided.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.55.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.56 Sales tax returns; monthly filing; form; contents; transmitting return with remittance for amount of tax; remittance; electronic funds transfer; accrual of tax to state; filing returns and payment of tax for other than monthly periods; taxpayer as material person; due date.

Sec. 6. (1) Each taxpayer, unless otherwise provided by law or as required pursuant to subsection (2), (4), or (5), on or before the twentieth day of each month shall make out a return for the preceding month on a form prescribed by the department showing the entire amount of all sales and gross proceeds of his or her business, the allowable deductions, and the amount of tax for which he or she is liable. The taxpayer shall also transmit the return, together with a remittance for the amount of the tax, to the department on or before the twentieth day of that month.

(2) Beginning January 1, 1999, each taxpayer that had a total tax liability after subtracting the tax payments made to the secretary of state under this act or the use tax act, 1937 PA 94, MCL 205.91 to 205.111, or after subtracting the tax credits available under section 6a, in the immediately preceding calendar year of \$720,000.00 or more shall remit to the department, by an electronic funds transfer method approved by the department on or before the twentieth day of the month, an amount equal to 50% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 50% of the actual liability for the month being reported, whichever is less, plus a reconciliation payment equal to the difference between the tax liability determined for the immediately preceding month minus the amount of tax previously paid for that month. Additionally, the seller shall remit to the department, by an electronic funds transfer method approved by the department on or before the last day of the month, an amount equal to 50% of the taxpayer's liability under this act for the same month in the immediately preceding calendar year, or 50% of the actual

liability for the month being reported, whichever is less.

(3) The tax imposed under this act shall accrue to this state on the last day of the month in which the sale is incurred.

(4) The department, if necessary to insure payment of the tax or to provide a more efficient administration, may require the filing of returns and payment of the tax for other than monthly periods.

(5) A taxpayer who is a materialperson may at the option of the taxpayer include the amount of all taxable sales and gross proceeds from materials furnished to an owner, contractor, subcontractor, repairperson, or consumer on a credit sale basis for the purpose of making an improvement to real property in his or her return in the first quarterly return due following the date in which the materialperson made the credit sale to the owner, contractor, subcontractor, repairperson, or consumer. Notwithstanding subsections (1) through (3), a materialperson may at the option of the taxpayer file quarterly returns for a credit sale only as determined by the department. As used in this subsection, "credit sale" means an extension of credit for the sale of taxable goods by a seller other than a credit card sale; and "materialperson" means a person who provides materials for the improvement of real property, who has registered with and has demonstrated to the department that he or she is primarily engaged in the sale of lumber and building material related products to owners, contractors, subcontractors, repairpersons, or consumers, and who is authorized to file a construction lien upon real property and improvements under the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305.

(6) If a due date falls on a Saturday, Sunday, state holiday, or legal banking holiday, the taxes are due on the next succeeding business day.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.56;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1963, Act 74, Imd. Eff. May 8, 1963;—Am. 1975, Act 99, Imd. Eff. June 2, 1975;—Am. 1980, Act 186, Imd. Eff. July 3, 1980;—Am. 1993, Act 18, Imd. Eff. Apr. 14, 1993;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 1998, Act 265, Imd. Eff. July 17, 1998;—Am. 1998, Act 453, Imd. Eff. Dec. 30, 1998;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.58 Consolidated returns.

Sec. 8. Any person engaging in 2 or more places in the same business or businesses taxable under this act, shall file a consolidated return covering all the business activities engaged in within this state.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.58;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.59 Administration of tax; conflicting provisions; rules.

Sec. 9. (1) The tax imposed by this act shall be administered by the department pursuant to 1941 PA 122, MCL 205.1 to 205.31, the streamlined sales and use tax administration act, and this act. If the provisions of 1941 PA 122, MCL 205.1 to 205.31, the streamlined sales and use tax administration act, and this act conflict, the provisions of this act apply.

(2) The department shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.59;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1964, Act 38, Eff. Aug. 28, 1964;—Am. 1971, Act 83, Imd. Eff. Aug. 4, 1971;—Am. 1975, Act 10, Imd. Eff. Mar. 25, 1975;—Am. 1980, Act 164, Eff. Sept. 17, 1980;—Am. 1988, Act 375, Eff. Mar. 22, 1989;—Am. 1991, Act 87, Imd. Eff. July 18, 1991;—Am. 1998, Act 365, Imd. Eff. Oct. 20, 1998;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

Administrative rules: R 205.1 et seq. of the Michigan Administrative Code.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.65 Certificate of dissolution or withdrawal.

Sec. 15. A domestic corporation, a foreign corporation, or other business entity authorized to transact business in this state that submits a certificate of dissolution or requests a certificate of withdrawal from this state shall request a certificate from the department stating that taxes are not due under section 27a of 1941 PA 122, MCL 205.27a, not more than 60 days after submitting the certificate of dissolution or requesting the certificate of withdrawal. A corporation or other business entity that does not request a certificate stating that taxes are not due is subject to the same penalties under section 24 of 1941 PA 122, MCL 205.24, that a taxpayer would be subject to for failure to file a return.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.65;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1971, Act 160, Imd. Eff. Nov. 24, 1971;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 2002, Act 579, Imd. Eff. Oct. 14, 2002;—Am. 2003, Act 25, Imd. Eff. June 24, 2003.

Compiler's note: Enacting section 1 of Act 25 of 2003 provides:

"Enacting section 1. This amendatory act takes effect for returns and remittances for those returns that are due or filed on or after the effective date of this amendatory act."

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.66 Injunction for failure to pay tax or obtain license.

Sec. 16. Any person against whom a tax shall be assessed as herein provided may be restrained and enjoined by proper proceedings instituted in the name of the state of Michigan, brought by the attorney general at the request of the department, from engaging and/or continuing in a business for which a privilege tax is required by the provisions of this act, until such tax shall have been paid, and/or license secured, and until such person shall have complied with the provisions of this act.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.66;—Am. 1949, Act 272, Eff. July 1, 1949.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.67 Records to be kept; sale to unlicensed person; failure to file return or maintain records; assessment; exemption certificate; good faith requirement; registration; exceptions; applicability of section under streamlined sales and use tax agreement.

Sec. 17. (1) A person liable for any tax imposed under this act shall keep accurate and complete beginning and annual inventory and purchase records of additions to inventory, complete daily sales records, receipts, invoices, bills of lading, and all pertinent documents in a form the department requires. If an exemption from sales tax is claimed because the sale is for resale or for any of the other exemptions or deductions granted under this act, a record shall be kept of the name and address of the person to whom the sale is made, the date of the sale, the article purchased, the type of exemption claimed, the amount of the sale, and, if that person has a sales tax license, the sales tax license number. If a taxpayer maintains the records required under this section, and accepts an exemption certificate from the buyer in good faith on a form prescribed by the department, the taxpayer is not liable for collection of the unpaid tax after a finding that the sale did not qualify for exemption under this act. As used in this section, "good faith" means that the taxpayer received a completed and signed exemption certificate from the buyer. A person knowingly making a sale of tangible personal property for the purpose of resale at retail to another person not licensed under this act is liable for the tax imposed under this act unless the transaction is exempt under the provisions of section 4k. These records must be retained for a period of 4 years after the tax imposed under this act to which the records apply is due or as otherwise provided by law. If the department considers it necessary, the department may require a person, by notice served upon that person, to make a return, render under oath certain statements, or keep certain records the department considers sufficient to show whether or not that person is liable for tax under this act. If the taxpayer fails to file a return or to maintain or preserve proper records as prescribed in this section, or the department has reason to believe that any records maintained or returns filed are inaccurate or incomplete and that additional taxes are due, the department may assess the amount of the tax due from the taxpayer based on information that is available or that may become available to the department. That assessment is considered prima facie correct for the purpose of this act and the burden of proof of refuting the assessment is upon the taxpayer. For purposes of this section, exemption certificate includes a blanket exemption certificate on a form prescribed by the department that covers all exempt transfers between the taxpayer and the buyer for a period of 4 years or for a period of less than 4 years as stated on the blanket exemption certificate if that period is agreed to by the buyer and taxpayer.

(2) For a period of not less than 30 days or more than 60 days that ends before September 1, 2000, as designated by the department, a person liable for any tax imposed under this act is exempt from the good faith requirement described in subsection (1) if that person submits to the department copies of all sales tax exemption certificates from buyers described in subsection (1).

(3) A buyer eligible to claim any of the exemptions or deductions granted under this act shall register on a form prescribed by the department. If a buyer fails to satisfy the registration requirement 6 months after either notice to register from the department or becoming eligible to claim an exemption or deduction under this act, whichever is later, the buyer is not entitled to submit an exemption certificate claiming an exemption or deduction otherwise granted by this act until the buyer registers. After the department has issued a notice to register, a nonregistered buyer shall be allowed to claim exemption in a refund claim that is filed with the

department within the time permitted under section 27a of 1941 PA 122, MCL 205.27a.

(4) If all information described in subsection (1) is otherwise maintained in routine business records, the good faith exemption certificate requirement in subsection (1) does not apply to the following:

(a) A person licensed by the Michigan liquor control commission as a wholesaler for purposes of sales of alcoholic liquor to another person licensed by the Michigan liquor control commission. As used in this subsection, "alcoholic liquor", "authorized distribution agent", and "wholesaler" mean those terms as defined in the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303.

(b) The Michigan liquor control commission or a person certified by the commission as an authorized distribution agent for purposes of the sale and distribution of alcoholic liquor to a person licensed by the Michigan liquor control commission.

(5) This section does not apply if this state becomes a member of the streamlined sales and use tax agreement.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1939, Act 313, Imd. Eff. June 22, 1939;—CL 1948, 205.67;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1969, Act 73, Imd. Eff. July 21, 1969;—Am. 1986, Act 42, Imd. Eff. Mar. 17, 1986;—Am. 1994, Act 132, Imd. Eff. May 20, 1994;—Am. 1995, Act 254, Imd. Eff. Jan. 5, 1996;—Am. 2000, Act 242, Imd. Eff. June 29, 2000;—Am. 2001, Act 102, Imd. Eff. July 30, 2001;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.73 Advertisement; amounts added to sales prices for reimbursement purposes; brackets; tax imposed under tobacco products tax act.

Sec. 23. (1) A person engaged in the business of selling tangible personal property at retail shall not advertise or hold out to the public in any manner, directly or indirectly, that the tax imposed under this act is not considered as an element in the price to the consumer. This act does not prohibit any taxpayer from reimbursing himself or herself by adding to the sale price any tax levied by this act.

(2) Subject to subsection (3), in determining amounts to be added to the sales prices for reimbursement purposes, the seller shall compute the tax to the third decimal place and round up to a whole cent when the third decimal place is greater than 4 or round down to a whole cent when the third decimal place is 4 or less.

(3) The following brackets may be used through December 31, 2005 by retailers in determining amounts to be added to sales prices for reimbursement purposes:

Amount of Sale	Tax
1 cent to 10 cents	0
11 cents to 24 cents	1 cent
25 cents to 41 cents	2 cents
42 cents to 58 cents	3 cents
59 cents to 74 cents	4 cents
75 cents to 91 cents	5 cents
92 cents to 99 cents	6 cents

For \$1.00 and each multiple of \$1.00, 6% of the sale price.

(4) A person other than this state may not enrich himself or herself or gain any benefit from the collection or payment of the tax.

(5) A person subject to tax under this act shall not separately state on an invoice, bill of sale, or other similar document given to the purchaser the tax imposed under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.73;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1964, Act 194, Eff. Aug. 28, 1964;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 2004, Act 173, Eff. Sept. 1, 2004.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.75 Disposition of money received and collected.

Sec. 25. (1) All money received and collected under this act shall be deposited by the department in the state treasury to the credit of the general fund, except as otherwise provided in this section.

(2) Fifteen percent of the collections of the tax imposed at a rate of 4% shall be distributed to cities, villages, and townships pursuant to the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921.

(3) Sixty percent of the collections of the tax imposed at a rate of 4% shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963 and distributed as provided by

law. In addition, all of the collections of the tax imposed at the additional rate of 2% approved by the electors March 15, 1994 shall be deposited in the state school aid fund.

(4) For the fiscal year ending September 30, 1988 and each fiscal year ending after September 30, 1988, of the 25% of the collections of the general sales tax imposed at a rate of 4% directly or indirectly on fuels sold to propel motor vehicles upon highways, on the sale of motor vehicles and on the sale of the parts and accessories of motor vehicles by new and used car businesses, used car businesses, accessory dealer businesses, and gasoline station businesses as classified by the department of treasury remaining after the allocations and distributions are made pursuant to subsections (2) and (3), the following amounts shall be deposited each year into the respective funds:

(a) For the fiscal year ending September 30, 2003 and for the fiscal year ending September 30, 2006 and each fiscal year ending after September 30, 2006, not less than 27.9% to the comprehensive transportation fund. For the fiscal year ending September 30, 2004 through the fiscal year ending September 30, 2005, not less than 24% to the comprehensive transportation fund. For the fiscal year ending September 30, 2006 only, the amount deposited to the comprehensive transportation fund under this subdivision shall be reduced by \$11,100,000.00.

(b) The balance to the state general fund.

(5) After the allocations and distributions are made pursuant to subsections (2) and (3), an amount equal to the collections of the tax imposed at a rate of 4% under this act from the sale at retail of computer software as defined in section 1a shall be deposited in the Michigan health initiative fund created in section 5911 of the public health code, 1978 PA 368, MCL 333.5911, and shall be considered in addition to, and is not intended as a replacement for any other money appropriated to the department of community health. The funds deposited in the Michigan health initiative fund on an annual basis shall not be less than \$9,000,000.00 or more than \$12,000,000.00.

(6) The balance in the state general fund shall be disbursed only on an appropriation or appropriations by the legislature.

History: 1933, Act 167, Imd. Eff. June 28, 1933;—Am. 1935, Act 77, Imd. Eff. May 23, 1935;—CL 1948, 205.75;—Am. 1949, Act 272, Eff. July 1, 1949;—Am. 1964, Act 49, Imd. Eff. May 7, 1964;—Am. 1978, Act 428, Imd. Eff. Sept. 30, 1978;—Am. 1982, Act 305, Imd. Eff. Oct. 13, 1982;—Am. 1982, Act 440, Eff. Mar. 30, 1983;—Am. 1987, Act 236, Imd. Eff. Dec. 28, 1987;—Am. 1987, Act 259, Imd. Eff. Dec. 28, 1987;—Am. 1991, Act 70, Imd. Eff. July 8, 1991;—Am. 1993, Act 325, Eff. May 1, 1994;—Am. 2003, Act 139, Imd. Eff. Aug. 1, 2003;—Am. 2004, Act 544, Imd. Eff. Jan. 3, 2005;—Am. 2006, Act 69, Imd. Eff. Mar. 20, 2006.

GENERAL SALES TAX ACT (EXCERPT)

Act 167 of 1933

205.78 Short title; general sales tax act.

Sec. 28. This act may be cited as the "General Sales Tax Act."

History: 1933, Act 167, Imd. Eff. June 28, 1933;—CL 1948, 205.78.